IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL REVIEW PETITION NO.65/07

Dr. Sheetu Singh & Ors.

Versus

State & Ors.

DATE OF ORDER :: 16/08/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Sanjeev Prakash Sharma, for petitioners
Mr. R.A. Katta, for respondents

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Instant review petition has been filed by both the petitioners, but counsel is pressing review petition only on behalf of petitioner No.1 Dr. Sheetu Singh, for recalling of the order passed by this court dated 16th April, 2007.

Petitioner did her MBBS from Manipal Academy of Higher Education. She applied in pursuance of advertisement issued by the respondents for holding Pre PG Medical Examination, 2007, but she was not considered to be eligible, as according to respondents, she was not fulfilling the conditions as referred to in the Ordinance 278 E-IV[iii]. Initially, this court vide ex-parte order dated 25th January, 2007 permitted the petitioner to appear in Pre PG Medical Examination, 2007 provisionally and as there was no restriction on declaration of her result, respondents declared result of petitioner and she secured 659 marks in OBC Category [Female]. When

the matter came on 16th April, 2007, it was brought to the notice of this court that no applicant, who secured lesser marks than her, has been considered for counselling at the relevant stage and accordingly, the writ petition became infructuous vide order dated 16th April, 2007. Later on, review petition has been filed on the premise that candidates, who secured lesser marks than her in OBC Category [Female], are under consideration in third counselling, which has been undertaken by respondents. But, because of her writ petition being dismissed by this court, respondents are not permitting to participate in third counselling and at that stage, while issuing notice of review petition, interim order was passed by this court on 29th May, 2007 directing the respondents to permit petitioner to participate in third counselling and if she finds place in the order of merit, she may be considered in pursuance of advertisement issued by respondents. Since counselling took place on 29th May, 2007, the document has been placed on record by the respondents in which petitioner was also permitted to participate in counselling and as per merit, she was allotted MD [Microbiology] at Bikaner, which is also evident from the document which respondents have enclosed with their reply Annexure-R/1 dated 29th May, 2007. Petitioner has disputed this fact of being permitted to participate in counselling by filing affidavit and so also in her rejoinder mentioning

that she has not been permitted to participate and the seat i.e. MD [Microbiology] at Bikaner, was never offered to her, but this fact has been disputed by the respondents.

Counsel for review petitioner has filed additional affidavit pointing out that other seats are lying vacant in SMS, Medical College, Jaipur. In Para 4 of rejoinder, reference has been made about certain seats, to be more specific 5 seats of MD/MS are lying vacant in SMS, Medical College, Jaipur.

When the matter came up before this court on 14th August, 2007 without going into controversy as to whether MD [Microbiology] at Bikaner was offered to her or not or she has declined to join, this court considered appropriate to direct the petitioner's counsel to take instructions as to whether she is ready to join the seat offered to her. Counsel for petitioner on instructions submits that his client is not inclined to join in MD [Microbiology], Bikaner offered to her in pursuance of order dated 29th May, 2007 and affidavit to this effect has been filed in the registry today.

A specific question was put to counsel for review petitioner as to whether any other applicant, who secured lesser marks than her, has been offered the seat which has been mentioned in

Para 4 of rejoinder, of which reference has been made above, counsel is unable to point out about the information which this court has called for.

On the pleading which has come on record in the review petition, the seat which was finally offered to petitioner as per her merit of MD/MS Selection, 2007 she is not inclined to join and she is also unable to show about any other applicant secured lesser marks than her, got seat of her choice to which she was otherwise entitled for as per her merit which is the sole criteria of selection to P.G. Course. This court finds that there is no substance to consider her review petition since it is not going to serve any purpose since seat offered as per merit she is not inclined to join to which alone she was entitled even otherwise as per her merit position.

Accordingly, I find no substance to interfere in the review petition, the same stands dismissed.

[AJAY RASTOGI],J.